

REMARKS

Applicant has amended the application to place the same, as a whole, into *prima facie* condition for allowance at this time. Applicant submits that substantial care has been taken to avoid the introduction of any new subject matter into the application as a result of the foregoing amendments.

Applicant acknowledges with gratitude that the terminal disclaimer filed relative to U.S. Patent No. 6,248,263 has been accepted and duly recorded.

Applicant has updated the specification and further clarified the priority of the present application by inserting the following after the Title of the Invention, namely: "This application is a continuation of Application No. 09/883,650, filed June 18, 2001, which is a continuation of Application No. 09/361,923, filed July 27, 1999, which is a continuation of Application No. 08/616,967, filed March 15, 1996." Applicant would like to thank the Examiner for requesting such clarification based on the priority objection and respectfully submits that any such ambiguity has been resolved.

Claims 3-69 have been objected to because of a non-substantive, phraseology-based informality. Applicant submits that the relevant claims have been amended to correct the above-identified informality, and that such an amendment introduces no new matter and is otherwise proper. As such, Applicant respectfully submits that the Examiner's basis for objection to claims 3-69 should be deemed overcome, and reconsideration and withdrawal of the objection are respectfully requested.

Claims 3-69 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,679,283 (hereinafter the '283 patent) issued to Tonar. Inasmuch as Applicant has clarified the priority claim for the present application, Applicant respectfully submits that any 35

U.S.C. §102(b) based upon the '283 patent is improper. To the best of Applicant's knowledge the '283 patent can, at best, only serve as a 35 U.S.C. §102(e) reference, which was antedated during prosecution of a parent case, namely: Application No. 09/361,923 (now U.S. Patent No. 6,248,263). Accordingly, Applicant respectfully submits that the basis for rejection of claims 3-69 under 35 U.S.C. §102(b), has been overcome, and reconsideration and withdrawal of the 35 U.S.C. §102(b) rejection based upon the '283 patent are respectfully requested.

Claims 3-53, 54-56, 58-59, 61-62, 64-65, and 67-69 have been rejected under 35 U.S.C. §102(b) as being anticipated by EP 612826 (hereinafter the '826 reference). In particular, the Examiner deems independent claims 3, 11, 19, 29, 37, and 47 to be non-limiting product-by-process claims. Applicant respectfully traverses the Examiner's rejection on two grounds. First, Applicant respectfully submits that the wherein clauses associated with claims 3, 11, 19, 29, 37, and 47 are properly set forth and form an affirmative, positive limitation on each of their respective claims. Applicant respectfully solicits the Examiner to consider MPEP §2111.04, which indicates that such clauses are, indeed, permissible and pertinent. Second, Applicant respectfully submits that the subject wherein clauses were not only requested by Examiner Tucker during an interview on December 22, 2003, but also deemed allowable. Accordingly, Applicant respectfully submits that the Examiner's basis for rejection of claims 3-53, 54-56, 58-59, 61-62, 64-65, and 67-69 has been overcome, and reconsideration and withdrawal of the 35 U.S.C. §102(b) rejection based upon the '826 reference are respectfully requested.

Claims 54, 57, 60, 63, 66, and 69 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the '826 reference. Applicant respectfully submits that in light of the clarifications regarding the '826 reference *supra*, the Examiner's rejection under 35 U.S.C. §103(a) should be deemed moot, and reconsideration and withdrawal of the 35 U.S.C. §103(a)

rejection based upon the '826 reference are respectfully requested.

In light of the foregoing, Applicant respectfully submits that the application is in *prima facie* condition for allowance at the present time. Accordingly, Applicant respectfully requests reconsideration of the present application and passage toward issuance thereof.

If any other charges or fees must be paid or credited in connection with this communication, they may be paid out of our Deposit Account No. 50-2131.

Should anything further be required a telephone call to the undersigned is respectfully solicited.

Respectfully submitted,

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